



MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, AUGUST 08, 2022

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m., with Don Threewitt, Planning Manager. Chair Stephens presided. Commissioner Shadduck-McNally and Commissioner Kefalas were present. Also present were Lesli Ellis, Community Development Director; Steven Rothwell, and Connor Sheldon, Engineering Department; Lea Schneider, Environmental Health; Tawn Hillenbrand, Victoria McKennen, Doug May, and Samantha Mott, Planning Department; Frank Haug, Assistant County Attorney; and Deirdre O'Neill Deputy Clerk.

Chair Stephens opened the meeting with the Pledge of Allegiance.

Chair Stephens noted that the first two items are on the consent agenda and that these items would not be discussed unless requested to do so by the Board, staff, or members of the audience.

Commissioner Shadduck-McNally had a question for staff on Consent Agenda item number two-Wagner Minor Land Division, FILE NO. 22-LAND4214 pertaining to oil and gas setbacks within a floodplain.

Doug May, planning, stated that per the Larimer County Land Use Code, newly platted property lines for residential development need to be setback 200-feet from a producing single well pad and 1,000 feet from a residential dwelling.

Commissioner Shadduck-McNally thanked staff for the clarification.

1. LINDENWOOD LOT 144A EASEMENT VACATION, FILE NO. 22-LAND4242:
This is a request to vacate 22.2-square feet of an existing Utility and Drainage Easement located along the south property line adjacent to Lindenwood Drive, to address an existing roof overhang encroachment while also allowing a future addition to the residence.

The applicant requests to vacate 22.2-square feet of an existing utility & drainage easement located along the south property line (front property line) adjacent to Lindenwood Drive. Vacating 22.2-square feet of the existing easement would address an existing roof overhang encroachment while also allowing a future addition to the residence.

There are no known utilities located in the proposed vacation area.

REVIEW CRITERIA:

The Larimer County Land Use Code (Article 6.5.8.D.1) allows for the approval of a plat modification, specific to Easement Vacation, if the following review criteria are met:

- A. Approval of the vacation request will not leave any land adjoining the right-of-way without an established public road or private access easement connecting the land with another established public road, or without utility or drainage services.
- B. The recommendations of referral agencies have been considered.
- C. Any right-of-way that is vacated will be divided equally between the lots on each side, unless it can be demonstrated that all of the right-of-way was originally taken from one parcel. In that case, the right-of-way will be returned to that parcel. Property owners on each side of the right-of-way may agree to divide the vacated right-of-way differently but must sign deeds to transfer ownership after the Larimer County Board of Commissioners approve the vacation.

If approved, all associated setbacks related to the consolidated lot would conform to the Larimer County Land Use Code Standards.

- D. Right-of-way vacations must also meet requirements of C.R.S. 43-2-303.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the Lindenwood Lot 144A Easement Vacation, File No. #22-LAND4242, subject to the following conditions:

- 1. The property will be subject to all restrictions, covenants, and conditions, as set forth in the plat of record for the amended plat for lots 182 and 144 and tracts B and E Lindenwood third filing.
- 2. Any future uses on lot 144A shall obtain approval through the applicable review procedure as established in the Larimer County Land Use Code prior to commencement of the use.
- 3. The Findings and Resolution shall be a servitude running with the property. Those owners of the property or any portion of the property who obtain title subsequent to the date of recording of the Findings and Resolution, their heirs, successors, assigns or transferees, and persons holding under applicants shall comply with the terms and conditions of this plat modification-easement vacation approval.

Lynn and Terry Birdsong purchased the property at 1704 Lindenwood Drive in Fort Collins in June 2021, with the intention of making it their primary residence after remodeling and adding on to the

existing home with attached garage. Early in the design process, a survey was completed to understand the exact location of the existing structures with respect to the property lines & setbacks for the purpose of planning the extents of the additions. When the survey information came back, it was discovered that the southwest corner of the existing attached garage was built right up against the utility & drainage easement which runs along the south side of their property off Lindenwood Drive, and that the southwest corner of the existing garage roof overhang currently encroaches into this easement. The house was built in 1978, so this condition has existed for the past 44 years but was not known until just recently.

The proposed additions, including the garage storage addition located west of the existing attached garage, have been designed such that both the new walls, roofs, and roof overhangs will be outside of the existing 25' Utility & Drainage Easement. As part of the improvements to the property, the applicants are proposing to remove the existing roof structure, raise the bearing height at the walls of the existing house & garage, and install new roof trusses. As a result, we are requesting this easement vacation to install roof overhangs, which will match the overhangs at the rest of the house, at the southwest corner of the existing garage.

The area of the proposed easement vacation is very small relative to the overall width of the 25' utility & drainage easement and is composed of a triangular area 7.60' x 5.83' x 6.41', for a total of 22.2 square feet, to allow for the construction of a roof overhang at the southwest corner of the existing garage. As a result, approval of the vacation request will not leave any land adjoining the right-of-way without an established public road or private access easement connecting the land with another established public road, or without utility or drainage services, as required per Article 6.5.8.D.1.a of the Larimer County Land Use Code.

2. WAGNER MINOR LAND DIVISION, FILE NO. 22-LAND4214: This is a Minor Land Division to divide a 98.18-acre parcel into two lots measuring 90.03-acres and 7.88-acres as well as an appeal to the Land Use Code article 2.3.3 Lot and Building Standards.

The property is located at the northwest intersection of County Road 72E and N. County Road 11. The subject property is a 98.18-acre property and contains a barn in the far northwest corner, an existing oil and gas well on the far west side, and most of the property is taken up by a pivot agricultural field. The property is zoned O – Open as is all surrounding properties.

The request is to divide the parcel into two lots – a 90.3-acre lot containing the existing single-family residence and the entire pivot field, and a 7.88-acre lot in the southwest corner of the property for a future single-family residence. While the proposed Minor Land Division will result in an additional developable lot, it does so because the existing property contains enough acreage to create two 35-acre parcels, which does not require approval from Larimer County and would result in two developable lots. This proposed Minor Land Division removes the step of going through the 35-acre development process and instead proceeds straight to the Minor Land Division process, which can be used to change lot lines between two 35 plus acre lots to create a lot under 35-acres.

REVIEW CRITERIA:

To approve a Minor Land Division, the Board of County Commissioners must consider the review criteria found in article 6.5.8.D.5 of the Land Use Code and find that each criterion has been met or determined to be inapplicable. These criteria are noted below:

- A. The property is not part of an approved or recorded subdivision plat.
- B. The property is not part of an Exemption or Minor Residential Development approved under the previous Subdivision Resolution or a Minor Land Division.
- C. The newly created parcels will meet the minimum lot size required by the applicable zoning district.
- D. The newly created parcels meet minimum access standards required by the County Engineer.
- E. Approval of the Minor Land Division will not result in impacts greater than those of existing uses. However, impacts from increased traffic to a public use may be offset by the public benefit derived from such use.

REVIEW CRITERIA FOR APPEALS TO DEVIATE FROM MINIMUM LOT SIZE REQUIREMENTS

- A. The lot size being proposed is consistent with the pattern of existing lots in the neighborhood.
- B. The proposed lot has sufficient area to support the intended use of the lot.
- C. There are physical features of the site or other special circumstances that support the proposed lot size.
- D. Granting the lot size appeal is consistent with the intent and purpose of this Code.

DEVELOPMENT SERVICE TEAM FINDINGS

The Development Services Team recommends Approval of the Wagner Minor Land Division, File #22-LAND4124, subject to the following conditions and authorization for the chairman to sign the plat when the conditions are met, and the plat is presented for signature:

1. All conditions of approval shall be met, and the final plat recorded February 8, 2022, or this approval shall be null and void.
2. Prior to the recordation of the final plat, the applicant shall confirm the technical corrections required by Ron Perkins, Land Surveyor of the Larimer County Engineering Department were made.

3. Prior to the recordation of the final plat, the applicant shall confirm the revisions required by Connor Sheldon of the Larimer County Engineering Department were made.
4. Prior to the recordation of the final plat, the applicant shall confirm the technical corrections required by Lea Schneider of the Larimer County Health and Environment Department were made.

MOTION

Commissioner Kefalas moved that the Board of County Commissioners approve the first two items on the Consent Agenda subject to the conditions in the staff reports and further move to authorize the Chair to sign the Findings and Resolutions.

Motion carried 3-0

PUBLIC HEARING DISCUSSION ITEMS:

1. BROWN ACCESSORY LIVING AREA SIZE APPEAL, FILE NO. 22-ZONE3236: Victoria McKennen, Planning Department, gave a brief presentation on this item to the Board. This is an appeal to article 3.4.5.A.3.b of the Larimer County Land Use Code to allow a detached accessory living area to exceed the required size limit of 40% of the square footage in the single-family dwelling or 1,200-square feet, whichever is less.

The property contains an existing principal single-family residence constructed in 1980 with a detached garage connected by an open breezeway. An additional detached/garage shop was built in 1990. The principal home is 2,488 square feet. The proposed detached accessory living area is 1,056 square feet which exceeds the size limitation of 40% of the size of the principal dwelling.

The applicant's project description indicates that the Accessory Living Area (ALA) is intended as a dwelling for Milton & Marci Brown. The size appeal will accommodate an additional bedroom/storage area. According to the applicant's project description, "As a storage area, it would allow convenient, indoor storage space for our family and guests that would be incorporated into the addition rather than a stand-alone storage shed. As an extra bedroom, it would allow one of us, as we age, to have an alternative room to sleep in when the need arises."

The existing home has driveway access to Gait Circle. The detached accessory living area is proposed to have a driveway access Gait Circle via the same driveway.

Ms. McKennen stated that the Board of County Commissioners is only reviewing the size appeal. The Planning Director is concurrently reviewing an Administrative Special Review for the detached accessory living area. One of the conditions of approval of the Administrative Special Review Resolution will be that if the size appeal is not granted by the Board of County Commissioners, the size of the accessory living area shall be limited to 955.2-square feet.

The Development Services Team historically has supported detached accessory living areas up to 1,200 square feet when the size limit was 800 square feet or 40% of the single-family dwelling unit,

whichever is less. Because of this, the Larimer County Land Use Code was updated in 2021 to allow for larger ALAs in this case 1200 square feet or 40% of the single-family dwelling unit, whichever is less. While the proposed ALA is less than the maximum allowed 1,200 square feet, it is over 40% of the square footage of the single-family dwelling. The Land Use Code clearly states that the allowed ALA size is limited to whichever square footage is less.

Ms. McKennon stated that staff finds that the application does not comply with the appeal criteria.

Therefore, the Development Services Team recommends denial of the request.

REVIEW CRITERIA

Article 6.7.2.B.5 –REVIEW CRITERIA FOR APPEALS TO DEVIATE FROM STANDARDS OR REQUIREMENTS OTHER THAN MINIMUM LOT SIZE When considering whether to approve an appeal to deviate from standards or requirements of this Code, other than minimum lot size requirements, the County Commissioners may grant the appeal subject to safeguards and conditions consistent with their findings concerning the following factors. The County Commissioners will consider each of the following factors and make findings pertaining to each one which, in their discretion, applies to the appeal:

- A. Approval of the appeal will not subvert the purpose of the standard or requirement**
- B. Approval of the appeal will not be detrimental to the public health, safety, or property values in the neighborhood.**
- C. Approval of the appeal is not the minimum action necessary.**
- D. Approval of the appeal will not result in increased costs to the general public.**
- E. Approval of the appeal is not consistent with the intent and purpose of the Code.**

DEVELOPMENT SERVICES TEAM RECOMMENDATION

The Development Services Team is recommending denial of this request of the Brown Appeal, File 22-ZONE3236 based on Criteria A, C and E are not met. The Land Use Code was recently updated which increased allowed sizes of ALA's. Because the proposed size of the ALA exceeds the new size limits that are allowed by the Code, this proposal is not consistent with the Land Use Code.

Ms. McKennon explained to the Board that the expressed purpose during the drafting of the code was to allow for relaxed square footage provisions; to provide specific standards to allow for deviations from the square footage limitations, and to discourage appeals to square footage by providing flexibility, sensitive to the context of the area.

Don Threewitt, Planning Manager explained to the Board that the intent was to ensure that Accessory Living Areas remained accessory to primary residence.

Chair Stephens invited the applicant to approach the Board.

Milton Brown, speaking on behalf of his family, communicated to the Board that their proposed plan is to renovate and add onto an existing garage/shop which would become a guesthouse for himself and his wife, Marci Brown, as well as help with their ageing parents from time to time. The existing building is currently 1,248-square feet, one half consisting of a 624-square feet two-stall garage, which would be left as is except for exterior upgrades. The other half consists of 624-square feet, which would be renovated and enlarged to 1,056-square feet.

They are filing this appeal to be able to have an additional 61 square feet to include a 130-square foot bedroom/storage room.

Mr. Brown affirmed that it would have minimal impacts if any to existing and future development of the area. It will not hinder or cause any adverse impacts to utilities on the property. It will only be occupied by one additional living unit. Mr. Brown mentioned that the new code requirements allow up to 1,200-square feet. He does realize that hearings took place, discussed the size requirement changes of the ALA's and are grateful that their size has been increased to the extent they have been. He is hoping that the county realizes the option or need for families to be able to live on the same property, for various health and aging reasons.

Chair Stephens opened the hearing for public comment. There was no one in attendance or online who wished to comment.

Chair Stephens closed public comment.

The Commissioners each stated that they are inclined to support this request and they believe the criteria is met and that this is a reasonable request. They did thank staff and understand the importance of following the Code and why staff recommends denial, but this is a minimal amount and falls under the 1,200-square feet that would be allowed in a larger home. The Commissioners feel that this meets the intent of the Code for a living area size appeal. This is meant to keep families in place and are in favor of approving the appeal.

Motion

Commissioner Shadduck-McNally moved to approve the Brown Accessory Living Area Size Appeal, FILE NO. 22-ZONE3236

Motion carried 3-0

TUESDAY, AUGUST 03, 2021

ADMINISTRATIVE MATTERS MEETING

The Board of County Commissioners met at 9:00 a.m. with Lorenda Volker, County Manager. Chair Stephens presided, and Commissioner Shadduck-McNally and Commissioner Kefalas were present. Also present were Michelle Bird, Public Affairs Director, Sarah Martin, County Managers Office and Deirdre O'Neill, Deputy Clerk.

Chair Stephens opened the meeting with the Pledge of Allegiance.

1. **PUBLIC COMMENT:** There were no members of the public signed up or via phone for public comment.

Chair Stephens closed public comment.

2. **APPROVAL OF THE MINUTES FOR THE WEEK OF AUGUST 1, 2022:**

M O T I O N

Commissioner Shaddock-McNally moved that the Board of County Commissioners approve the minutes for the week of August 1, 2022.

Motion carried 3-0

3. **REVIEW OF THE SCHEDULE FOR THE WEEK OF AUGUST 15, 2022:** Ms. Bird reviewed the upcoming schedule with the Board.

The Board did have some updates/adjustments to add to the schedule.

4. **CONSENT AGENDA:**

AGREEMENTS:

1. **JOINT FIBER OPTIC CABLE PROJECT AND COST SHARING AGREEMENT-CARTER SUB-STATION TO FLATIRON SUB-STATION**
2. **MODIFICATION OF GRANT OR AGREEMENT U.S. FOREST SERVICE GRANT/AGREEMENT NUMBER 21-C S-11021000-013**
3. **PROFESSIONAL SERVICES AGREEMENT (P22-11, ARCHITECTURAL SERVICE)**
4. **COLORADO STRATEGIC WILDFIRE ACTION PROGRAM (COSWAP) GRANT AGREEMENT**

APPOINTMENTS:

1. **RECOMMENDED REAPPOINTMENT TO OFFICE ON AGING COUNCIL –** Jill Couch, Joe Glomboski, and Lisa Hays
2. **RECOMMENDED APPOINTMENT TO THE WORKFORCE DEVELOPMENT BOARD –** Jessica Drydahl

3. **RECOMMENDED REAPPOINTMENTS TO THE OPEN LANDS ADVISORY BOARD**-Mike Carter, Paul Hudnut, Gary Miller, and Ward Nelson to a 3-year term beginning August 9, 2022, and ending June 30, 2025.

LIQUOR LICENSES: Charco Broiler Inc dba Charco Broiler - Hotel and Restaurant - Fort Collins, Colorado; - Hog Wild Barbeque Inc dba Hog Wild Barbeque – Beer and Wine – Fort Collins, Colorado; Fall Equinox Half Marathon – Special Event 6% - Bellvue, Colorado; Horsetooth Store and Gas – Fermented Malt Beverage Off Premise – Fort Collins, Colorado; Poudre Landmark Foundation – Special Event Permit 6% -Fort Collins, Colorado; NICSO LLC dba Sundance Steakhouse & Saloon – Hotel and Restaurant – Fort Collins, Colorado; Vern’s Liquor – Retail Liquor Store – LaPorte, Colorado

MISCELLANEOUS:

1. **RVESCO PROPERTIES OF FORT COLLINS LLLP STIPULATION AS TO TAX YEAR 2021 VALUE**
2. **AMENDING THE BYLAWS AND RULES OF PROCEDURE OF THE LARIMER COUNTY LAPORTE AREA PLANNING ADVISORY COMMITTEE (LAPAC)**

POLICIES:

1. **HUMAN RESOURCES POLICY AND PROCEDURE 331.6Q** – Addition of Juneteenth Holiday beginning Jun 19, 2022.

RESOLUTIONS:

1. **FINDINGS AND RESOLUTION APPROVING THE PETERS SHORT-TERM RENTAL ADMINISTRATIVE REVIEW**

DEEDS

1. **RW-16 DEED OF DEDICATION FOR RIGHT OF WAY PURPOSES FROM CYNTHIA A BROKMAN, TRUSTEE (OWNER) TO LARIMER COUNTY**

M O T I O N

Commissioner Kefalas moved that the Board of County Commissioners approve the Consent Agenda for August 9, 2022.

Motion carried 3-0

5. **COMMISSIONERS GUESTS:** There were no guest present for comment.

DISCUSSION ITEMS

8. BOARD OF COUNTY COMMISSIONERS CONVENE AS BOARD OF EQUALIZATION TO APPROVE OF THE BOARD OF EQUALIZATION REFEREE RECOMMENDATIONS:

MOTION

Commissioner Shadduck McNally moved to convene as the Board of Equalization.

Motion carried 3-0

Elizabeth Carter and Jared Jaques, Clerk and Recording Office, addressed the Board to discuss the referee's recommendations for the Board of Equalization that need to be reviewed and approved by the Board of Commissioners acting as the Board of Equalization.

Ms. Carter noted that the hearings that took place between July 27, 2022, and August 3, 2022, had a total of 179 accounts which included rural homes, mobile homes, business personal property, oil and gas, severed mineral rights, and possessory interest accounts. There was a total of 19 hearings conducted, 7 accounts were adjusted, of that 1 account values was a stipulated change, 58 accounts were denied, and 114 accounts were withdrawn.

MOTION

Commissioner Shadduck-McNally moved to approve the recommendations submitted by the Board of Equalization referee for the hearings held July 27-August 3, 2022.

Motion carried 3-0

MOTION

Commissioner Kefalas moved to adjourn meetings as the Board of Equalization and reconvene as the Board of County Commissioners.

Motion carried 3-0

9. COUNTY MANAGER UPDATE: Ms. Voelker briefly updated the Board on upcoming projects and activities.

10. COMMISSIONER ACTIVITY REPORTS: The Commissioners reported on their activities that they have been involved in over the previous week.

With there being no further business, the Board adjourned at 9:50 a.m.

Kristin Stephens

KRISTIN STEPHENS
BOARD OF COUNTY COMMISSIONERS

ANGELA MYERS
CLERK AND RECORDER

ATTEST:

Deirdre O'Neill

Deirdre O'Neill, Deputy Clerk



